

Department of Veterans Affairs

§ 14.700

(2) Was incident to the employee's service and his or her possession of the property was reasonable, useful, or proper under the circumstances,

(3) Did not occur at quarters occupied within the 50 States or the District of Columbia that were not assigned to the claimant or otherwise provided in kind by the United States.

(4) Was not caused wholly or partly by the negligent act of claimant, the claimant's agent, or employee, and that the claimant has no right to indemnification for the loss or damage from other than the United States, except to the extent that the claimant assigns such right to the United States and agrees to furnish evidence required to enable the United States to enforce such right. In the event there is a right to recovery for the loss or damage from a carrier or insurer the claimant will be required to file a timely claim for such recovery before consideration of the claim against the United States.

(b) No claim for the cost of repair or replacement of personal property of employees damaged or destroyed by patients or domiciliary members while such employees are engaged in the performance of official duties shall be entertained under §§ 14.664 through 14.667, unless claim filed pursuant to 38 U.S.C. 703(a)(5) (§ 17.78 of this chapter) has been finally denied for the reason that such claim did not meet the criteria established by that law.

[38 FR 5475, Mar. 1, 1973, as amended at 42 FR 41422, Aug. 17, 1977]

§ 14.668 Disposition of claims.

(a) *Disallowed claims.* Claimants will be promptly notified of the disallowance of a claim and the reasons therefor.

(b) *Allowed claims*—(1) *Reimbursement in kind.* Where a claim is allowed and it is determined to be to the advantage of the Government, reimbursement will be made in kind. The official authorizing settlement will request the Director, Supply Service, Veterans Health Services and Research Administration, to procure the necessary article or articles and deliver same to the claimant.

(2) *Reimbursement by check.* The official authorizing settlement will forward allowed claims, other than those

requiring reimbursement in kind, to the Finance activity at the Department of Veterans Affairs installation where the claim arose. That activity will audit the claim, which if found proper for payment, will be scheduled on SF 1166, Voucher and Schedule of Payments, and forwarded to the appropriate Regional Disbursing Office for payment.

[38 FR 5475, Mar. 1, 1973, as amended at 42 FR 41422, Aug. 17, 1977]

§ 14.669 Fees of agents or attorneys; penalty.

The Military Personnel and Civilian Employees' Claims Act of 1964 (Pub. L. 88-558; 78 Stat. 767) was amended by Pub. L. 89-185 (79 Stat. 789), on September 15, 1965, by adding a new section which provided that no more than 10 percent of the amount paid in settlement of each individual claim submitted and settled under the authority of the Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim. Any person violating the provisions of this Act is deemed to be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

[38 FR 5475, Mar. 1, 1973]

COMMITMENTS—FIDUCIARIES

SOURCE: 42 FR 41422, Aug. 17, 1977, unless otherwise noted.

§ 14.700 Court cost and expenses; commitment, restoration, fiduciary appointments.

It is the responsibility of the Regional Counsel to assure the protection of the veteran, his or her beneficiaries, and their estates in State court proceedings involving commitment and restoration, and the appointment of fiduciaries. To this end certain expenses such as court costs, publication fees, recording fees, transportation expenses and fees for medical testimony may be authorized by the Regional Counsel. Payment of these costs will be borne by the administration concerned. However, every effort will be made by the Regional Counsel to avoid having these costs imposed on the Department of Veterans Affairs. The travel and per

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diem cost of the Regional Counsel personnel will be borne by the Regional Counsel.

§ 14.701 Commitment and restoration proceedings.

(a) *State institutions.* Regional Counsels are authorized to cooperate with State courts, including the production of required records in the commitment of veterans to State hospitals or in their restoration to full civil rights.

(b) *Department of Veterans Affairs institutions—(1) Assistance to courts in commitment proceedings.* The Regional Counsel will render assistance to the courts in cases involving the commitment of mentally ill veterans to the Department of Veterans Affairs. To this end, the Regional Counsel may:

(i) Produce Department of Veterans Affairs records.

(ii) Appear in court and present material facts.

(iii) When authorized to institute commitment proceedings under paragraph (b)(2) of this section, prepare and present all necessary legal papers, and arrange and authorize transportation costs of veterans and attendants at Department of Veterans Affairs expense (§§ 14.703 and 14.704).

(2) *Commitment proceedings.* If a mentally ill veteran will accept hospitalization voluntarily, no action will be initiated by any Department of Veterans Affairs employee to commit such veteran. If the veteran will not accept hospitalization, or after being voluntarily hospitalized by the Department of Veterans Affairs demands his or her release, and hospitalization is necessary for the veteran's safety or the safety of others, the Regional Counsel (if a relative of the veteran or other interested person has not done so) may institute proceedings to commit the veteran to the Department of Veterans Affairs subject to the following conditions:

(i) That the written consent of the veteran's nearest relative has been obtained. If the nearest relative cannot be readily contacted or refuses to consent, coupled with inability or refusal to offer adequate alternative care, the Regional Counsel may initiate the action if the petition is signed by another relative, a civil official or representa-

tive of a cooperating agency or other person authorized by State law.

(ii) If timely action cannot be taken under paragraph (b)(2)(i) of this section, the Hospital or Clinic Director, or designee, may sign the petition if permissible under State law, and the Regional Counsel will then take any action necessary to bring the matter before the appropriate court.

(3) *Illegal commitment.* When a hospitalized veteran, previously committed to the Department of Veterans Affairs, demands release and continued hospitalization is necessary for the veteran's safety or the safety of others, and the Regional Counsel determines the commitment to be illegal, immediate action will be taken to obtain a legal commitment.

(4) *Restoration proceedings.* When a veteran has been a committed patient in a Department of Veterans Affairs hospital and is subsequently rated competent by the Department of Veterans Affairs, the Regional Counsel upon request, may institute proceedings necessary to restore the veteran to full civil rights.

§ 14.702 Medical testimony in commitment or restoration proceedings.

(a) *Commitment.* When permissible under State law, Department of Veterans Affairs physicians, upon request of the Regional Counsel, will sign interrogatories or certificates of mental illness or insanity and, unless unavailable, as provided in paragraph (c) of this section, will testify in proceedings which the Regional Counsel is authorized to institute under § 14.701 to commit eligible veterans to the Department of Veterans Affairs.

(b) *Restoration.* (1) When permissible under State law, Department of Veterans Affairs physicians, upon the request of the Regional Counsel, will testify in proceedings brought for the purpose of restoring a committed veteran to full civil rights when the veteran is a committed patient in a Department of Veterans Affairs hospital.

(2) The Director of a Department of Veterans Affairs hospital or the Regional Counsel upon discharge of the veteran, may furnish a certificate of sanity or such similar certificate to the proper civil authorities.